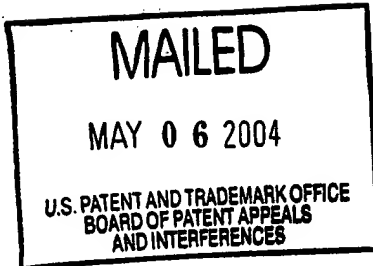


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES Q. MI,
VISHESH PARIKH and ALBERT Y. TENG

Application No. 09/259,620

ORDER RETURNING TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on April 8, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith returned to the examiner. The matters requiring attention prior to docketing are identified below.

Section 1208 of the Manual of Patent Examining Procedure (MPEP) (Eighth Edition, Rev. 1, February 2003) states:

APPEAL CONFERENCE

An appeal conference is mandatory in all cases in which an acceptable brief (MPEP § 1206) has been filed. . . .

.

. . . If the examiner's answer does not contain the appropriate indication that an appeal conference has been held (i.e., including the names of the conferees and identifying themselves as the conferees along with their initials), the Board should return the application directly to the appropriate Technology Center (TC) Director for corrective action. . . . This procedure applies to all examiner's answers received by the Board on or after November 1, 2000.

The Examiner's Answer mailed October 8, 2003 (Paper No. 20) is deficient in that there is signature or initials for Matthew Smithers, one of the conferees. Correction is required.

In addition, a supplemental Information Disclosure Statement (IDS) was filed on February 2, 2004 (Paper No. 22). It is not apparent from the record whether the examiner considered the statement submitted or notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98. A communication notifying appellants regarding the Primary Examiner's decision is required. It should also be noted that the fee for filing an IDS in accordance with 37 CFR § 1.17(p) does not appear to have been charged to Appellants' Deposit Account No. 20-1504 (ITL.0160US) as requested in the cover sheet to the supplemental IDS.

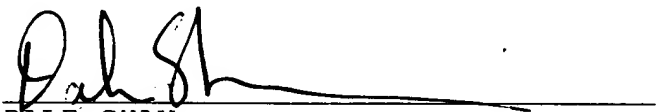
Accordingly, it is

ORDERED that the application is returned to the examiner:

1. for taking corrective action regarding the appeals conference;
2. for consideration of the supplemental IDS filed February 2, 2004 (Paper No. 22) and appropriate notification to appellants regarding the Primary Examiner's decision;
3. for charging the fee for filing an IDS under 37 CFR § 1.97(c) or (d) to appellants' Deposit Account No. 20-1504 (ITL.0160US);
4. for written communication to appellants regarding the action taken; and
5. for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:


DALE SHAW
Program and Resource Administrator
(703) 308-9797

Application 09/259,620

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